

EDITOR'S NOTE

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BETTER COPY CAN BE OBTAINED, A NEW FICHE
WILL BE ISSUED.

WLB
MARIA LUISA COSTELL GAYDOS Petitioner plaintiff, Appellant pro se
36 Afterglow Way. Montclair New Jersey 07042 201 746 0517
UNITED STATES OF AMERICA (joined) Plaintiff, Appellant

ORIGINAL

Supreme Court U.S.
FILED

OCT 25 1996

CLERK

DISTRIBUTED

IN THE

OCT 25 1996

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1996 (3)

36-5831

PETITION FOR EXTRAORDINARY WRIT OF MANDAMUS

IN RE : MARIA LUISA COSTELL GAYDOS
UNITED STATES OF AMERICA (joined)
Petitioners. -Appellants-Plaintiffs

RESPONDENT : U.S. DISTRICT COURT- DISTRICT OF NEW JERSEY

Petition had been served to:
William T. Walsh, Clerk to
submit to qualified Clerk
U.S. District Court
50 Walnut Street.
Newark .New Jersey 07102

Petitioners:
Maria Luisa Costell Gaydos
pro se
36 Afterglow Way.
Montclair New Jersey 07042
201 746 0517

U.S. Solicitor General
Drew S. Days III
U.S. Department of Justice
Justice Main Bldg.
Washington D.C. 20530
202 514-2000

REQUESTING OPINION IN SUPPORT OF MARCH 6, 1996 ORDER in case :
Maria Luisa Costell Gaydos , U.S. (joined) v. P. Douglas Sisk et al.
Civil No. 96-698 (WGB)

Oct 8, 1995
Orders to be enforced =
Exhibits 4, 5, 6 and 7 by US Supreme Court
Oct 22, 1996
1996

QUESTIONS . TO BE PRESENTED

Whether First Amendment, due process and equal protection require the issuing of supporting opinion in denial to proceed IFP in civil right violations complaint.

Whether RULE 14.1 (i) of the U.S. Supreme Court requiring petitioners to submit opinion of district court also implies mandate to district court to issue opinion so required.

STATEMENT OF JURISDICTION

Jurisdiction of THIS COURT is invoked under Title 28 U.S.C.#1651 and/or Title 28 U.S.C.# 2101.

Jurisdiction of the U.S. Court of Appeals has been invoked under Title 28 U.S.C. #1291.

Jurisdiction of U.S. District Court has been invoked under Title 28 U.S.C. #1343 , #1345 , supplemental jurisdiction under Title 28 U.S.C.#1367 and #1361, federal question jurisdiction found in Title 28 U.S.C.#1331.

Constitutional Provisions Involved.

FIRST AMENDMENT..."right to petition the Givernment for redress of grievances"..

FIFTH AMENDMENT....Clauses of due process and equal protection.

CERTIFIED STATEMENT OF THE CASE
AND FACTS.

Maria Luisa Costell Gaydos, Petitioner pro se certifies under oath the following "facts" and "judicial records":

a) No opinion had been issued in support of March 6, 1996 Order. (EXHIBIT I) by U.S. District Court.

b) As for Rule 14.1(i) of the U.S. Supreme Court such opinion is needed to docket petition for writ of certiorari filed with the COURT July 24, 1996, corrected September 16, 1996.(EXHIBITS 2, 3).

c) Enclosed EXHIBITS are true copies of those received by petitioner from the courts.

I swear under oath and penalty of perjury to be true and correct the above said.

Oct 8, 1996

Maria L Costell Gaydos
MARIA LUISA COSTELL GAYDOS
PETITIONER PRO SE.

APPLICATION FOR WRIT OF MANDAMUS.

Maria Luisa Costell Gaydos pro se and UNITED STATES OF AMERICA (joined) petitioners , respectfully , address THIS COURT requesting a WRIT OF MANDAMUS to the U.S. District Court to issue an opinion with findings of facts and conclusions of law to support . March 6, 1996 Order in civil right complaint **Maria Luisa Costell Gaydos, United States of America (joined) v. P. Douglas Sisk, Bradford A. Baldus, Toby D. Slawsky, Carol Los Mansmann, Edward R. Becker, Anthony J. Scirica, John, Jane Doe Civil No. 96-698.**

Respectfully submitted

Maria L. Costell Gaydos
Maria Luisa Costell Gaydos pro se
United States of America(joined)
Petitioners

REASONS TO GRANT THE WRIT OF MANDAMUS.

- A) To enforce the First Amendment right to access to court and clauses of due process and equal protection, for it is alleged that litigants applying to proceed IFP shall not be denied such constitutional rights by March 6, 96 Order that is unsupported by the facts and the law. Actually the U.S. District Court has granted pro se to proceed IFP in cases docketed 95-4773 and 96-243 and supported these reliefs with opinions with specific findings of facts and conclusions of law. (Exh. 1)
- B) To aid the jurisdiction of THIS COURT for without findings of the lower court the July 24, 1996 writ of certiorari cannot be docketed. (Exh. 3)
- C) Because issues in case 96-698 are of compelling public interest and require the supervision of THIS COURT of judicial and non-judicial personnel, to wit : Orders are signed by judges that are defendants-appellees-respondents on the same cases to which the Orders refer; and Clerks are submitting appellate papers to said judges who are defendants in the lower court case; and Clerks and Circuit Executive are notifying Judicial Council Orders that they cannot produce under request; and that said Orders signed

by judges in the: own causes are being applied to denied access to court to pro se and United States of America(joined) PLAINTIFF, in civil rights complaints involving violation of Title 18 U.S.C., and subsequent appeals.

D) Because such faulty denials to proceed IFP, in which even the caption had been altered, denounce a cover-up of the activities described in previous paragraph C) and complaint No. 96-698.

E) That such cover-up is futile as petitions for impeachments of Circuit Judge Los Mansmann and Clerks Suter, Sisk and Walsh had been filed in the House of Representatives, and Report on violations of Title 28 U.S.C. #372 had been filed with the Honorable William H. Rehnquist in the Judicial Conference of the United States .

F) And finally because the requests by U.S. Supreme Court Clerk's Office (EXHIBIT 3) served to U.S. District Court had yielded no result, briefs filed in the U.S. Court of Appeal-Third Circuit had yielded no opinion either. Therefore nothing short of a direct mandate of THIS COURT would remedy such deficiency that violate fundamental constitutional rights of this pro se and "the people".

Respectfully submitted
Maria L. Costell Gaydos
Maria Luisa Costell Gaydos pro se
United States of America(joined)
Petitioners.

Oct 3, 1996

LIST OF EXHIBITS	Number
March 6, 1996 Order.....	1
Cover of petition for writ of certiorari dated July 24, 1996 corrected Sep.16,1996....	2
July 30, 1996 letter from U.S. Supreme Court.....	3
Service	
Application to proceed IFP.	

FILED

FEB 29 1996

February 28, 1996

At 8:30 M
WILLIAM T. WALSH
CLERK

Ms. Maria Luisa Costell Gaydos
36 Afterglow Way
Montclair, NJ 07042

LETTER ORDER FILED WITH THE CLERK OF THE COURT
DISMISSING PLAINTIFF'S COMPLAINT PURSUANT TO 28 U.S.C. SECTION
1915(d) AND REFERRING THE COMPLAINT TO JUDGE DEBEVOISE

Gaydos v. Sisk, 96 Civ. 698 (WGB)

Dear Ms. Gaydos:

I have received your motion for reconsideration of my February 1, 1996 Order denying your application to proceed in forma pauperis. I deny your motion for reconsideration. I also supplement my February 1, 1996 Order by dismissing your Complaint pursuant to 28 U.S.C. Section 1915(d) (the court "may dismiss the case if the allegation of poverty is untrue, or if satisfied that the action is frivolous or malicious"). I am satisfied that the Complaint is frivolous and therefore dismiss it with prejudice. See Gaydos v. Sisk, 96 Civ. 243 (JEI) (dismissing your Complaint pursuant to 28 U.S.C. Section 1915(d)); Gaydos v. Debevoise, 95 Civ. 5253 (DRD) (same); Gaydos v. Debevoise, 95 Civ. 4773 (JEI) (same).

Furthermore, because filing this Complaint appears to be in violation of Judge Debevoise's July 16, 1993 Order, I am referring this matter to him.

The Clerk of the Court is Ordered to remove this case from the Court's active docket.

So Ordered.

Very truly yours,

William G. Bassler, U.S.D.J.

ENTERED

cc: Hon. Dickinson R. Debevoise

EXHIBIT 1

THE DOCKET
3/6 1996
WILLIAM T. WALSH, CLERK
By [Signature]
(Deputy Clerk)

original

Corrected as required by
Supreme Court's communication
dated July 30, 96 (EXHIBIT 5)

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1996

Sep. 16, 96

MARIA LUISA COSTELL GAYDOS
UNITED STATES OF AMERICA (joined)
Plaintiffs Appellants Petitioners

v.

- 1) P. DOUGLAS SISK ET AL...in Civ. No. 96698 WGB)
- 2) DICKINSON R. DEBEVOISE ET AL.....in Civ. No. 95-4773 (JEI)
- 3) P. DOUGLAS SISK ET AL.....in Civ. No. 96-243 (JEI)

Defendants Appellees Respondents
in U.S. Court of Appeals Misc. No. 94-8021.

PETITION FOR WRIT OF CERTIORARI
REQUESTED ORIGINAL AND/OR APPELLATE REVIEW
ON CASES ABOVE MENTIONED NEVER ADJUDICATED "ON MERITS".
WITH REQUEST FOR CLERK'S DISQUALIFICATION (Applic. IFP)

DEPENDANTS

Not served by Clerk
No appearance by attorney

PETITIONERS

Maria Luisa Costell Gaydos, pro se
36 Afterglow Way, Montclair N.J.
07042

Hon. Drew S. Days III,
U.S. Solicitor General
U.S. Department of Justice
Justice Main Bldg.
Washington D.C. 20530

Served : U.S. District Court, Clerk's Office, U.S. Courthouse
50 Walnut Street, Newark New Jersey 07102
U.S. Court of Appeals-Third Circuit, Clerk's Office
601 Market St. Philadelphia PA. 19106-1790

EXHIBIT 2

RECEIVED
SEP 20 1996
OFFICE OF THE CLERK
SUPREME COURT, U.S.

July 24, 1996

SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001

WILLIAM K. SUTER
CLERK OF THE COURT

July 30, 1996

AREA CODE 202
479-3011

Maria Luisa Costell Gaydos
36 Afterglow Way
Montclair, NJ 07042

RE: Maria Luisa Costell Gaydos

Dear Ms. Gaydos:

The above-entitled petition for writ of certiorari was postmarked July 25, 1996 and received July 29, 1996. The papers are returned for the following reason(s):

The appendix to the petition does not contain the following documents required by Rule 14.1(i):

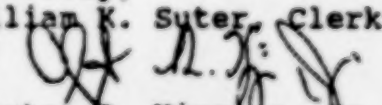
The opinion of the United States district court must be appended.

No affidavit or declaration of service, specifying the names and addresses of those served, was received. Rule 29.5.

Please correct and resubmit as soon as possible. Unless the petition is received by this Office in corrected form within 60 days of the date of this letter, the petition will not be filed. Rule 14.5.

A copy of the corrected petition must be served on opposing counsel.

You must provide an original and 10 copies of your petition for a writ of certiorari and motion for leave to proceed in forma pauperis. Rule 12.2.

Sincerely,
William K. Suter, Clerk
By: 
Clayton R. Higgins, Jr.
(202) 479-3019

Enclosures

EXHIBIT 3

IN THE

SUPREME COURT OF THE UNITED STATES
OCTOBER TERM 1996

IN RE : MARIA LUISA COSTELL GAYDOS
UNITED STATES OF AMERICA (joined)
Petitioners

CIVIL ACTION No.....

MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

The appellant MARIA LUISA COSTELL GAYDOS, pro se respectfully, ask leave to file APPLICATION FOR WRIT OF MANDAMUS in forma pauperis.
AFFIDAVIT.

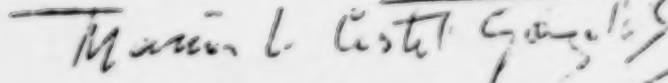
I, Maria Luisa Costell Gaydos, petitioner pro se, being duly sworn according to law, depose and say:

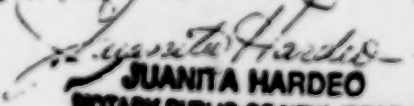
THAT I am the petitioner pro se in this case; that in support of my motion to proceed without being required to prepay fees, costs or give security therefore, I state that because of my poverty I am unable to pay the costs of said case or give security therefore; and that I believe I am entitled to redress.

I, further swear that the responses which I have made to the question and instructions related to my ability to pay the costs of the proceedings of this Court are true.

- 1.- Are you present employedNo ; and last employment 1969 \$1,426/month
- 2.- Have you received within the past twelve months any income from a business, profession or other form of self-employment or in form of rents, payments, interest, dividends or other sources, Yes \$6,480/year pension-alimony.
- 3.-Do you own any cash, checking or saving account, Yes, approx. \$300.
- 4.-Do you own real estate, stocks, bonds, notes, automobiles or other valuable property, Yes car approx. value \$ 200.
- 5.- I dont have any dependents.

I declare under penalty of perjury that the foregoing is true and correct.


MARIA L. COSTELL GAYDOS
Petitioner, pro se

Oct. 8, 1996
County of Essex
State of New Jersey

JUANITA HARDEO
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires March 20, 2001

Maria Luisa Costell Gaydos, Petitioner pro se
36 Afterglow Way, Montclair N.J. 07042 201 746 0517
United States of America (joined) Petitioner
U.S. Department of Justice, Justice Main Bldg. Washington D.C. 20530

IN THE
UNITED STATES SUPREME COURT
OCTOBER TERM, 1996

ON PETITION FOR WRIT OF MANDAMUS

IN RE : MARIA LUISA COSTELL GAYDOS
UNITED STATES OF AMERICA (joined), PETITIONERS

Lower Court , RESPONDENTS : U.S. DISTRICT COURT, NEW JERSEY
U.S. COURT OF APPEALS-THIRD CIRCUIT

PROOF OF SERVICE

MARIA LUISA COSTELL GAYDOS, Petitioner pro se certifies under
oath that the enclosed petition for WRIT OF MANDAMUS WITH THREE EXHIBITS
(and/or appellate review) with application to proceed IFP had been served:

Original and ten copies to the UNITED STATES SUPREME COURT, Office
of the Clerk . Washington D.C. 20543.

Copies to : a) U.S. District Court. Office of the Clerk, U.S. Court-
house 50 Walnut Street. Newark New Jersey 07102;

b) U.S. Solicitor General Drew S. Days III, U.S. Department of Justice,
Justice Main Bldg. Washington D.C. 20530

by First class mail, certification of mailing and return receipt to
Clerk of the U.S. Supreme Court.

I certify to be true and correct the above said under penalty of
perjury.

Oct. 8, 1996

Maria L Costell Gaydos
MARIA LUISA COSTELL GAYDOS
Petitioner pro se.

SUPPLEMENT TO OCTOBER 8, 1996 PETITION FOR WRIT OF MANDAMUS.

This extraordinary petition for writ of mandamus is supplemented here
with copies of the ORDERS to be enforced to wit : (and new service)

SUPREME COURT RULE 20.3 (EXHIBIT 4)

SUPREME COURT RULE 14.1 (i) (EXHIBIT 5)

PRCP 3.4 (a) and (b), 5 (e) and Local Rule 8 of the U.S. District
Court-New Jersey (EXHIBITS 6 and 7)
as also requested by EXHIBIT 3 and EXHIBIT 8.

It is also resubmitted REQUEST FOR DISQUALIFICATION OF WILLIAM K. SUTER,
CLERK OF THE SUPREME COURT OF THE UNITED STATES. First submission filed
October 15, 1996 as shows EXHIBIT 9. with copy of memorial for impeachment.

Respectfully

Maria L Costell Gaydos
MARIA LUISA COSTELL GAYDOS, PRO SE
UNITED STATES OF AMERICA (joined)
Petitioners, Plaintiffs-Appellants

October 22, 1996

whether the case shall be briefed, set for argument, or dismissed. No brief may be filed prior to the preliminary examination of the certificate.

4. If the Court orders that the case be briefed or set for argument, the parties shall be notified and permitted to file briefs. The Clerk of this Court shall then request the clerk of the court from which the case originates to certify the record and transmit it to this Court. Any portion of the record to which the parties wish to direct the Court's particular attention shall be printed in a joint appendix prepared by the appellant in the court below under the procedures provided in Rule 26, but the fact that any part of the record has not been printed shall not prevent the parties or the Court from relying on it.

5. A brief on the merits in a case on certificate shall comply with Rules 24, 25, and 33, except that the brief of the party who is the appellant below shall be filed within 45 days of the order requiring briefs or setting the case for argument.

Rule 20. Procedure on a Petition for an Extraordinary Writ

1. The issuance by the Court of an extraordinary writ authorized by 28 U.S.C. § 1651(a) is not a matter of right, but of discretion sparingly exercised. To justify the granting of any writ under that provision, it must be shown that the writ will be in aid of the Court's appellate jurisdiction, that there are present exceptional circumstances warranting the exercise of the Court's discretionary powers, and that adequate relief cannot be obtained in any other form or from any other court.

2. The petition in any proceeding seeking the issuance by this Court of a writ authorized by 28 U.S.C. §§ 1651(a), 2241, or 2254(a), shall comply in all respects with Rule 33, except that a party proceeding in forma pauperis may proceed in the manner provided in Rule 39. The petition shall be captioned "In re [name of petitioner]" and shall follow, insofar as applicable, the form of a petition for a writ of certiorari prescribed by Rule 14. All contentions in support of the petition shall be included in the petition. The case will be placed on the docket when 40 printed copies, with proof of service as prescribed by Rule 29 (subject to subparagraph 4(b) of this Rule), are filed with the Clerk and the docket fee is paid.

3. (a) A petition seeking the issuance of a writ of prohibition, a writ of mandamus, or both in the alternative, shall set forth the name and office or function of every person against whom relief is sought and shall set forth with particularity why the relief sought is not available in any other court.

See Title 28 U.S.C.A.

There shall be appended to the petition a copy of the judgment or order in respect of which the writ is sought, including a copy of any opinion rendered in that connection, and any other paper essential to an understanding of the petition.

(b) The petition shall be served on the judge or judges to whom the writ is sought to be directed and shall also be served on every other party to the proceeding in respect of which relief is desired. The judge or judges and the other parties may, within 30 days after receipt of the petition, file 40 printed copies of a brief or briefs in opposition thereto, which shall comply fully with Rule 15. If the judge or judges who are named respondents do not desire to respond to the petition, they may so advise the Clerk and all parties by letter. All persons served shall be deemed respondents for all purposes in the proceedings in this Court.

4. (a) A petition seeking the issuance of a writ of habeas corpus shall comply with the requirements of 28 U.S.C. §§ 2241 and 2242, and in particular with the provision in the last paragraph of § 2242 requiring a statement of the "reasons for not making application to the district court of the district in which the applicant is held." If the relief sought is from the judgment of a state court, the petition shall set forth specifically how and wherein the petitioner has exhausted available remedies in the state courts or otherwise comes within the provisions of 28 U.S.C. § 2254(b). To justify the granting of a writ of habeas corpus, the petitioner must show exceptional circumstances warranting the exercise of the Court's discretionary powers and must show that adequate relief cannot be obtained in any other form or from any other court. These writs are rarely granted.

(b) Proceedings under this paragraph 4 will be *ex parte*, unless the Court requires the respondent to show cause why the petition for a writ of habeas corpus should not be granted. A response, if ordered, shall comply fully with Rule 15. Neither the denial of the petition, without more, nor an order of transfer to a district court under the authority of 28 U.S.C. § 2241(b), is an adjudication on the merits, and therefore does not preclude further application to another court for the relief sought.

5. When a brief in opposition under subparagraph 3(b) has been filed, when a response under subparagraph 4(b) has been ordered and filed, when the time within which it may be filed has expired, or upon an express waiver of the right to file, the papers will be distributed to the Court by the Clerk.

6. If the Court orders the case to be set for argument, the Clerk will notify the parties whether additional briefs are required, when they must be

Complete Annotation Ma

- Exhibit 4 -

(f) The constitutional provisions, treaties, statutes, ordinances, and regulations involved in the case, setting them out verbatim, and giving the appropriate citation therefor. If the provisions involved are lengthy, their citation alone will suffice at this point and their pertinent text must be set forth in the appendix referred to in subparagraph 1(k) of this Rule.

(g) A concise statement of the case containing the facts material to the consideration of the questions presented.

(h) If review of a judgment of a state court is sought, the statement of the case shall also specify the stage in the proceedings, both in the court of first instance and in the appellate courts, at which the federal questions sought to be reviewed were raised; the method or manner of raising them and the way in which they were passed upon by those courts; and such pertinent quotation of specific portions of the record or summary thereof, with specific reference to the places in the record where the matter appears (e.g., ruling on exception, portion of court's charge and exception thereto, assignment of errors) as will show that the federal question was timely and properly raised so as to give this Court jurisdiction to review the judgment on a writ of certiorari. When the portions of the record relied upon under this subparagraph are voluminous, they shall be included in the appendix referred to in subparagraph 1(k) of this Rule.

(i) If review of a judgment of a United States court of appeals is sought, the statement of the case shall also show the basis for federal jurisdiction in the court of first instance.

(j) A direct and concise argument amplifying the reasons relied on for the allowance of the writ. See Rule 10.

(k) An appendix containing, in the following order:

(i) The opinions, orders, findings of fact, and conclusions of law, whether written or orally given and transcribed, delivered upon the rendering of the judgment or decree by the court whose decision is sought to be reviewed.

(ii) Any other opinions, orders, findings of fact, and conclusions of law rendered in the case by courts or administrative agencies, and, if reference thereto is necessary to ascertain the grounds of the judgment or decree, of those in companion cases. Each document shall include the caption showing the name of the issuing court or agency, the title and number of the case, and the date of entry.

Complete Annotation Materials, see Title 28 U.S.C.A.

- Exhibit 5 -

(iii) Any order on rehearing, including the caption showing the name of the issuing court, the title and number of the case, and the date of entry.

(iv) The judgment sought to be reviewed if the date of its entry is different from the date of the opinion or order required in subparagraph (i) of this subparagraph.

(v) Any other appended materials.

If what is required by subparagraphs 1(f), (h), and (k) of this Rule to be included in or filed with the petition is voluminous, it may be presented in a separate volume or volumes with appropriate covers.

2. The petition for a writ of certiorari and the appendix thereto, whether in the same or a separate volume, shall be produced in conformity with Rule 33. The Clerk shall not accept any petition for a writ of certiorari that does not comply with this Rule and with Rule 33, except that a party proceeding *in forma pauperis* may proceed in the manner provided in Rule 39.

3. All contentions in support of a petition for a writ of certiorari shall be set forth in the body of the petition, as provided in subparagraph 1(j) of this Rule. No separate brief in support of a petition for a writ of certiorari will be received, and the Clerk will refuse to file any petition for a writ of certiorari to which is annexed or appended any supporting brief.

4. The petition for a writ of certiorari shall be as short as possible and may not exceed the page limitations set out in Rule 33.

5. The failure of a petitioner to present with accuracy, brevity, and clearness whatever is essential to a ready and adequate understanding of the points requiring consideration will be a sufficient reason for denying the petition.

Rule 15. Brief in Opposition; Reply Brief; Supplemental Brief

1. A brief in opposition to a petition for a writ of certiorari serves an important purpose in assisting the Court in the exercise of its discretionary jurisdiction. In addition to other arguments for denying the petition, the brief in opposition should address any perceived misstatements of fact or law set forth in the petition which have a bearing on the question of what issues would properly be before the Court if certiorari were granted. Unless this is done, the Court may grant the petition in the mistaken belief that the issues presented can be decided, only to learn upon full consideration of the briefs and record at the time of oral argument that such is not the case. Counsel are admonished

Rule 3. Commencement of Action

A civil action is commenced by filing a complaint with the court.

ADVISORY COMMITTEE NOTES 1937 Adoption

1. Rule 3 defines what constitutes filing with the court.
2. This rule governs the commencement of all actions, including those brought by or against the United States or an officer or agency thereof, regardless of whether service is to be made personally pursuant to Rule 4(d), or otherwise pursuant to Rule 4(e).
3. With this rule compare [former] Equity Rule 12 (Issue of Subpoena—Time for Answer) and the following statutes (and other similar statutes) which provide a similar method for commencing an action:

U.S.C., Title 28:

- § 43 [former] (District courts; practice and procedure in certain cases under interstate commerce laws).
 - § 762 [see 1402] (Petition in suit against United States).
 - § 766 [see 2402] (Partition suits where United States is tenant in common or joint tenant).
4. This rule provides that the first step in an action is the filing of the complaint. Under Rule 4(a) this is to be followed forthwith by issuance of a summons and its delivery to an officer for service. Other rules providing for dismissal for failure to prosecute suggest a method available to attack unreasonable delay in prosecuting an action after it has been commenced. When a Federal or State statute of limitations

is pleaded as a defense, a question may arise under this rule whether the mere filing of the complaint stops the running of the statute, or whether any further step is required, such as, service of the summons and complaint or their delivery to the marshal for service. The answer to this question may depend on whether it is competent for the Supreme Court, exercising the power to make rules of procedure without affecting substantive rights, to vary the operation of statutes of limitations. The requirement of rule 4(a) that the clerk shall forthwith issue the summons and deliver it to the marshal for service will reduce the chances of such a question arising.

COMMENTARIES

See 28 U.S.C. Rule 3, Federal Rules of Civil Procedure, for Commentary by David D. Siegel.

Rule 4. Summons

(a) **Form.** The summons shall be signed by the clerk, bear the seal of the court, identify the court and the parties, be directed to the defendant, and state the name and address of the plaintiff's attorney or, if unrepresented, of the plaintiff. It shall also state the time within which the defendant must appear and defend, and notify the defendant that failure to do so will result in a judgment by default against the defendant for the relief demanded in the complaint. The court may allow a summons to be amended.

(b) **Issuance.** Upon or after filing the complaint, the plaintiff may present a summons to the clerk for signature and seal. If the summons is in proper form, the clerk shall sign, seal, and issue it to the plaintiff for service on the defendant. A summons, or a copy of the summons if addressed to multiple defendants, shall be issued for each defendant to be served.

Rule 5(e)
Filing with the Court Defined. The filing of papers with the court as required by these rules shall be made by filing them with the clerk of the court, except that the judge may permit the papers to be filed with the judge, in which event the judge shall note thereon the filing date and forthwith transmit them to the office of the clerk. Papers may be filed by facsimile transmission if permitted by rules of the district court, provided that the rules are authorized by and consistent with the

standards established by the Judicial Conference of the United States. The clerk shall not refuse to accept for filing any paper presented for that purpose solely because it is not presented in proper form as required by these rules or any local rules or practices.

(As amended Jan. 21, 1963, eff. July 1, 1963; Mar. 30, 1970, eff. July 1, 1970; Apr. 29, 1980, eff. Aug. 1, 1980; Mar. 2, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Dec. 1, 1991.)

Local Rules U.S. DISTRICT COURT

Effective Date. These Rules shall become effective on October 1, 1984, provided that any formal disciplinary proceeding then pending before this Court shall be concluded under the procedure existing prior to the effective date of these Rules.
(Amended January 29, 1984.)

RULE 8. FILING OF PAPERS, FORM

A. The initial pleading, motion, or other paper of any party filed in any cause other than criminal actions in this Court shall state in the first paragraph the street and post office address of each named party to the case or, if the party is not a natural person, the address of its principal place of business. A pleading, motion, or other initial paper submitted for filing in a case must contain the street and post office address of counsel, their client(s) or unrepresented parties. Counsel and/or unrepresented parties must advise the Court of any change in their or their client's address within five (5) days of being apprised of such change by filing a notice of said change with the Clerk. Failure to file a notice of address change may result in the imposition of sanctions by the Court.

B. All papers to be filed in any cause or proceeding in this Court shall be plainly printed or typewritten, without interlineation or erasures which materially deface them, shall bear the docket number and the name of the Judge assigned to the action or proceeding, and shall have endorsed upon the first page the name, office, post office address, and telephone number and the initials of their first and last name, and last four (4) digits of the social security number of the attorney of record for the filing party. All papers shall be in black lettering on reasonably heavy paper size 8 1/2 x 11 inches; carbon copies shall not be used. The attorney of record who is an attorney at law of this Court shall personally sign all papers submitted to the Court or filed with the Clerk.

C. When papers are filed, the Clerk shall endorse thereon the date and time of filing.

D. Except in an emergency, no papers shall be left with or mailed to a Judge for filing, but all pleadings shall be filed with the Clerk of the Court.

E. Parties shall furnish to the Clerk forthwith, upon demand, all necessary copies of any pleading, judgment or order, or other matter of record in a cause, so as to permit the Clerk to comply with the provisions of any statute or rule. Upon the filing of a complaint, plaintiff or plaintiff's attorney shall furnish to the Clerk a completed civil cover sheet (JS FORM 11) and one extra copy of the complaint in addition to any copies required to be filed under the Civil Rules. Upon receipt of such extra copy, the Clerk shall transmit the same to the Judge to whom the case is assigned.

F. If a demand for jury trial under Rule 38(b) of the Civil Rules is made, it shall be endorsed upon a

pleading and the title of the pleading shall include the words "and Demand for Jury Trial" or the equivalent.

G. A pleading which sets forth a claim for relief in the nature of unliquidated money damages shall state in the ad damnum clause a demand for damages generally without specifying the amount. Upon service of a written request by another party, the party filing the pleading shall within 10 days after service thereof furnish the requesting party with a written statement of the amount of damages claimed, which statement shall not be filed except on Court order. Nothing stated herein shall relieve the party filing the pleading of the necessity of alleging the requested jurisdictional amount in controversy, where applicable.
(Amended December 1, 1991; August 18, 1994.)

RULE 9. SERVICE OF PAPERS

A. The initial summons and complaint shall be served in accordance with Rule 4 of the Civil Rules. Service of all other papers may be made in the manner specified in Rule 5(b) of the Civil Rules.

B. Except where otherwise provided by these Rules (or the Civil Rules), proof of service of all papers required or permitted to be served shall be filed in the Clerk's office promptly and in any event before action is taken thereon by the Court or the parties. The proof shall show the date and manner of service and may be by written acknowledgment of service, by certificate of a member of the bar of the Court, by affidavit of the person who served the papers, or by any other proof satisfactory to the Court. Failure to make the required proof of service does not affect the validity of the service; the Court may at any time allow the proof of service to be amended or supplied unless it clearly appears that to do so would result in material prejudice to the substantive rights of any party.

C. The Clerk is authorized to sign and enter orders specially appointing persons other than the Marshal to serve process pursuant to Rule 4(c) of the Civil Rules.

RULE 10. PREPAYMENT OF FEES

A. Except as otherwise directed by the Court, the Clerk shall not be required to enter any suit for any paper, issue any process or render any other service for which a fee is prescribed by statute or by the Judicial Conference of the United States, nor shall the Marshal be required to serve the same or perform any service, unless the fee therefor is paid in advance. Nevertheless, any papers received by the Clerk without payment of such fees shall be marked "received" and the date and time of receipt shall be noted thereon.

B. In all actions in which the fees of the Clerk and Marshal are not required by law to be paid in advance, and in which a poor suitor or a seaman is permitted

either by judgment or satisfaction of judgment all of the fees of the

RULE 11. ASSIGN

A. Each civil case of the Court to determine it is commenced residence of the defendant, counsel and a cause of action arose the location of trial unless changed by order

B. 1. After allocation forthwith to a Judge charged with such antitrust or other exclusive made under direction

2. If it appears that attention and due been or would be available, the Clerk under direction of the matter either permissive Judge.

C. Promptly after civil case, the Clerk their counsel and assignment. Object assignment of a civil opposing counsel, has been assigned.

D. When a civil included in a case, grows out of the pending in this Court, assignment of an which is involved Court, counsel shall inform the Clerk, such action shall state the pending

E. All criminal Clerk to Judges regard to where the where the assigned of trial and of all changed by order assignment of a sentence other than ting shall be made General Rule 12,

F. Reassignment order of the Clerk

- Exhibit 6 -

- Exhibit 7 -

SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001

WILLIAM K. SUTER
CLERK OF THE COURT

September 20, 1996

AREA CODE 202
479-3011

Maria Luisa Costell Gaydos
36 Afterglow Way
Montclair, NJ 07042

RE: In re Maria Luisa Costell Gaydos

Dear Ms. Gaydos:

The above-entitled petition for writ of certiorari was originally postmarked July 25, 1996 and received again on September 20, 1996. The papers are returned for the following reason(s):

The appendix to the petition does not contain the following documents required by Rule 14.1(i):

The opinion of the United States district court must be appended (96-00698).

Sincerely,
William K. Suter, Clerk
By: *[Signature]*
Clayton R. Higgins, Jr.
(202) 479-3019

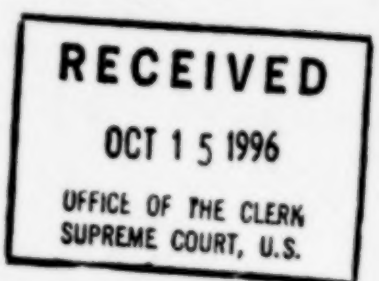
*no opinion was
issued
in violation
of the Rules 20.3 and 14.1(i) of the
U.S. Supreme Court and FRCP 3, 4(a)
and (b), 5(e) and Local Rule 8 of
US District Court - New Jersey: Exhibits
3, 4, 5, 6 and 7 of this petition.*

Enclosures

- Exhibit 8 -

Maria Luisa Costell Gaydos, Petitioner pro se.
36 Afterglow Way. Montclair N.J. 07042 201 746 0517
United States of America (joined) Petitioner
U.S. Department of Justice
Justice Main Bldg.
Washington D.C. 20530

October 10, 1996 -



CLAYTON R. HIGGINS, Jr.
Assistant
U.S. Supreme Court
Office of the Clerk
Washington D.C. 20543

RE: In re Maria Luisa Costell
Gaydos, United States of America
(joined)

Dear Mr. Higgins:

The original and ten copies of the corrected writ of certiorari is here returned for I guess it was mailed to me by mistake. It is accompanied by an application for writ of mandamus to the lower court to produce the "opinion" so repeatedly requested in compliance with RULE 14.1(i) of the U.S. SUPREME COURT for all remedies exhausted, nothing short of a direct writ of mandamus by the COURT will compel the rendering of the opinion by the lower court. The rest of corrections on the writ of certiorari were timely made by petitioner.

To avoid confusion I also include a separate action, original and ten copies with service, entitled REQUEST FOR DISQUALIFICATION OF WILLIAM K. SUTER, CLERK OF THE U.S. SUPREME COURT with two EXHIBITS and courtesy copy of the memorial for impeachment of Clerks William K. Suter, P. Douglas Sisk and William T. Walsh filed in the U.S. House of Representatives and U.S. Senate.

Please be kind to return the copy of this letter stamped and the updated RULES OF THE U.S. SUPREME COURT as I am pro se litigating under stressing financial situation.

Thank you.

Very truly yours
Maria L Costell Gaydos
Maria Luisa Costell Gaydos, pro se
Petitioner.

- Exhibit 9 -

Maria Luisa Costell Gaydos, Petitioner pro se
36 Afterglow Way Montclair N.J. 07042 201 740 0517
United States of America (joined) Petitioner
U.S. Department of Justice, Justice Main Bldg. Washington D.C. 20530

IN THE

UNITED STATES SUPREME COURT

OCTOBER TERM 1996

ON PETITION FOR WRIT OF MANDAMUS

IN RE : MARIA LUISA COSTELL GAYDOS
UNITED STATES OF AMERICA (joined), PETITIONERS

Lower Court , RESPONDENTS : U.S. DISTRICT COURT, NEW JERSEY
U.S. COURT OF APPEALS-THIRD CIRCUIT

PROOF OF SERVICE

MARIA LUISA COSTELL GAYDOS, Petitioner pro se certifies under oath that the enclosed SUPPLEMENT TO OCTOBER 8, 1996 EXTRAORDINARY PETITION FOR WRIT OF MANDAMUS WITH 6 EXHIBITS had been served :

Original and ten copies to the UNITED STATES SUPREME COURT, Office of the Clerk . Washington D.C. 20543.

Copies to : a) U.S. District Court. Office of the Clerk, U.S. Courthouse 50 Walnut Street. Newark New Jersey 07102;

b) U.S. Solicitor General Drew S. Days III, U.S. Department of Justice, Justice Main Bldg. Washington D.C. 20530

by First class mail, certification of mailing and return receipt to Clerk of the U.S. Supreme Court.

I certify to be true and correct the above said under penalty of perjury.

Oct. 22 1996

Maria L Costell Gaydos
MARIA LUISA COSTELL GAYDOS
Petitioner pro se.